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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,575	10/31/2003	Matthew L. Andis	012021-9227	1576
23409	7590	03/24/2005		
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			EXAMINER O MALLEY, KATHRYN S	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/699,575

Applicant(s)

ANDIS ET AL.

Examiner

Kathryn S. O'Malley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 13 December 2004 with respect to claims 1-6, 8, 11-13, 16, and 17 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant's arguments filed 13 December 2004 with respect to claims 7, 9, 10, 14, 15, and 18-20 have been fully considered but they are not persuasive.
3. In response to applicant's argument that Andis does not teach all of the limitations of claim 18, Examiner agrees. However, since the claim has been rejected as obvious in view of Andis, not anticipated by Andis, such an argument is irrelevant.
4. In response to Applicant's argument that a prima facie case of obviousness has not been established regarding claims 18-20, the argument amounts to a general allegation that obviousness has not been established. Applicant has not presented evidence or foundation to support such an assertion.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1-6, 8-13, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels.

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3. Michaels teaches a plastic hang-up hair dryer assembly comprising a hand-held hair dryer, a housing 2 adapted for mounting to a wall via bores 6 and storing the hair dryer when not in use, an electrical cord connecting the hair dryer to a power supply, and a cord hanger 5 comprising an extending base portion and terminating in a knob portion integrally connected to the housing 2 for storing the electrical cord when the hair dryer is not in use. Note column 4, lines 46-58 and Figures 2, 6, and 8. Michaels does not teach the cord hanger extending from the side of the holder. However, in the absence of unexpected results or a showing of criticality, and since it appears to this examiner that a hanger extending from the front of the holder would function in much the same way as a hanger extending from the side of the holder, such claim limitations would have been an obvious matter of design choice and fail to constitute a patentable distinction over the prior art of record. Regarding claims 2, 3, and 5, Michaels teaches that the cord hanger 5 is intended to be used when the hair dryer is unplugged, so it is reasonable to assume that the cord is free from the hanger during use. Regarding claims 9 and 10, Michaels does not teach the cord hanger 5 being removably attached to the housing 2. However, such a modification would have been obvious to one of ordinary skill in the art since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179. Regarding, claim 15, Michaels also does not teach two cord hangers. However, such a modification would have been obvious to one of ordinary skill in the art since it has been held that mere duplication of the essential working parts

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of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Michaels as applied to claim 8 above, and further in view of US Patent 4,493,975 to Yamamoto.

5. Michaels does not teach a coil cord between the hair dryer and the housing. However, as such a cord is known in the art (note Yamamoto Figure 1) and provides extra extension, it would have been obvious to one of ordinary skill in the art to modify the hair dryer of Michaels with the coil cord of Yamamoto.

6. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,590,475 to Andis, hereinafter referred to as Andis.

7. Andis teaches mounting a housing 17 to a vertical wall, supporting a hand held hair dryer 19 in the housing 17 when not in use, connecting the hair dryer to a power source via electrical cord 39, and releasably supporting a portion of the cord 39 by passing the cord through apertures 61 and 63. Note column 2, lines 48-61; column 3, lines 40-47; and Figures 1, 2, and 6. Andis does not teach connecting the cord hanger to the housing because the two pieces are formed integrally. However, such a step would have been obvious to one of ordinary skill in the art since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Elrichman*, 168 USPQ 177, 179.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andis as applied to claim 18 above, and further in view of Iverson.

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9. Andis does not teach supporting the cord from the top of the housing. Iverson teaches a similar cord hanger 100 wherein the hanger is attached to the top part of housing 110. Note Figure 2. As Iverson teaches that having an elevated cord hanger keeps the cord wrapped in the vicinity of the housing instead of hanging from the bottom thereof, thereby taking up less space during storage, it would have been obvious to one of ordinary skill in the art to modify the cord hanger of Andis with the elevation of Iverson.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn S. O'Malley whose telephone number is (571)272-4879. The examiner can normally be reached on M-F (9:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KSO

  
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